BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

JULIAN UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2020060016

ORDER DETERMINING STUDENT'S COMPLAINT TO BE INSUFFICIENT

JUNE 8, 2020

On June 1, 2020, Parent on behalf of Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Julian Union High School District. On June 8, 2020, Julian Union filed a notice of insufficiency as to the complaint.

APPLICABLE LAW

The named parties have the right to challenge the complaint's sufficiency. (20 U.S.C. § 1415(b) & (c).) The party filing the complaint is not entitled to a hearing

unless the complaint meets the requirements of title 20 United States Code section 1415(b)(7)(A).

A complaint is sufficient if it: (1) describes the problem relating to the proposed change regarding the Student's identification, evaluation, or educational placement, or providing the Student a free appropriate public education, or FAPE; (2) includes facts about the problem; and (3) includes a proposed resolution to the extent known and available to the party at the time. (20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).) These requirements prevent vague and confusing complaints, and promote fairness by providing the named parties with sufficient information to know how to prepare for the hearing and how to participate in resolution sessions and mediation. (See H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.)

The complaint provides enough information when it provides "an awareness and understanding of the issues forming the basis of the complaint." (Sen. Rep. No. 108-185, *supra*, at p. 34.) The pleading requirements should be liberally construed in light of the broad remedial purposes of the IDEA and the relative informality of the due process hearings it authorizes. (*Alexandra R. ex rel. Burke v. Brookline School Dist.* (D.N.H., Sept. 10, 2009, CIV. 06-CV-0215-JL) 2009 WL 2957991[nonpub. Opn.]; *Escambia County Bd. Of Educ. V. Benton* (S.D. Ala. 2005) 406 F.Supp.2d 1248, 1259-1260; *Sammons v. Polk County School Bd.* (M.D. Fla., Oct. 28, 2005, 8:04CV2657T24EAJ) 2005 WL 2850076 [nonpub. Opn.]; but cf. *M.S.-G v. Lenape Regional High School Dist. Bd. Of Educ.* (3d Cir. 2009) 306 Fed.Appx. 772, 775 [nonpub. Opn.].) Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge. (*Assistance to States for the Educ. Of Children with Disabilities & Preschool Grants for Children with Disabilities* (Aug. 14, 2006) 71 FR 46,540-46541, 46699.)

Education Code section 48200 generally requires that children attend school in the district where the residence of either the parent or legal guardian is located. (67 Ops.Cal.Atty.Gen. 452, 453 (1984).) Thus, residency for the purpose of school attendance generally is established, not by where the student resides, but by the residence of the student's parent.

DISCUSSION

The complaint of Student, a minor, alleges a postal address for Parent, and alleges that Student resides within Julian Union's boundaries. The complaint does not allege that Parent resides within the boundaries of Julian Union. Although Student is not required to submit proof of Parent's residency within Julian Union's boundaries, as asserted by Julian Union, or even the exact address, he must allege that Parent is a resident of the school district as an essential fact to provide Julian Union an awareness and understanding of why Student is asserting a claim against it.

Student otherwise sufficiently alleges that he came to California with an individualized education program, or IEP, from Oklahoma, but despite Parent's January 2020 attempts to enroll Student, Julian did not respond to Parent, offer to assess Student, adopt a 30-day interim IEP, or otherwise offer Student placement and related services. Student alleges that Julian Union denied him a FAPE by (1) refusing to enroll him, (2) failing to meet its Child Find obligation, (3) failing to timely assess Student, (4) failing to offer Student placement, and (5) failing to offer Student special education and related services, because a program of FAPE. Student seeks placement, services, independent educational evaluations and an order that Julian Union staff receive training. However, without a jurisdictional allegation of Parent's residency within Julian Union's boundaries, the complaint fails to provide Julian Union with the required problem description and the facts relating to the problem.

Therefore, Student has failed to state sufficient facts supporting his claims against Julian Union, and the complaint is insufficient.

ORDER

1. Student's complaint is insufficiently pled under section title 20 United States Code 1415(c)(2)(D).
2. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
3. The amended complaint shall comply with the requirements of title 20 U.S.C. section 1415(b)(7)(A)(ii), and shall be filed not later than 14 days from the date of this order.
4. If Student fails to file a timely amended complaint, the complaint will be dismissed.
5. All dates previously set in this matter are vacated.

DocuSigned by:
Alexa Hohensee
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Alexa Hohensee

Administrative Law Judge

Office of Administrative Hearings